

S.R. 275 - By Glasgow: Extending congratulations to the Weatherford College Jazz Band.

S.R. 276 - By Glasgow: Commending Larry McMurtry for his contributions to Texas lore and legend.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:15 p.m. adjourned in loving memory of the Honorable Mary Jane Christensen, County Clerk, Galveston County, until 11:00 a.m. tomorrow.

APPENDIX

Signed by Governor
(March 30, 1987)

H.B. 2 (Effective immediately)

THIRTY-EIGHTH DAY (Wednesday, April 1, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Everett Cain, Episcopal Church of the Good Shepherd, Austin, offered the invocation as follows:

Almighty and most merciful God, as we pray for the members of this body, its officers and all those who share in its labors, we remember that You were never in a hurry and never lost "inner peace", even under pressure greater than we shall ever know.

But we are often weary and grow tired. We feel the strain of meeting deadlines, and weaken under frustration.

Give to those gathered here today that peace that refreshes weariness, that this may be a good day with much well done, that this body may say with St. Paul: "I can do all things through Christ who gives me strength."

And Lord, create warmth and love between these members and all who work with them that they may serve not only with their heads but with their hearts. May they be able to disagree without being disagreeable and to differ without being difficult.

In an atmosphere of team spirit, give them freedom to be honest without tension and frank without offense, that in Your spirit they may serve Your people.

In the Name of our Lord Jesus Christ we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
April 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 144, Relating to modification of an order in a suit affecting the parent-child relationship.

H.B. 520, Relating to the filing deadline for and the certification of declared write-in candidates in the general election for State and county officers.

H.B. 37, Relating to fire safety requirements for nursing homes, custodial care homes, and similar institutions.

H.C.R. 135, Recognizing April 1, 1987, as George Jones Day.

S.B. 464, Relating to the regulation of health spas. (Amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Caperton submitted the following report for the Committee on Jurisprudence:

S.B. 514
S.B. 643
H.B. 317
S.B. 886 (Amended)
C.S.S.B. 926
C.S.S.B. 428
C.S.S.B. 531
C.S.S.B. 382
C.S.S.B. 120

Senator Blake submitted the following report for the Committee on Administration:

S.R. 210 (Amended)

Senator Brooks submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 170
C.S.S.B. 462
C.S.S.B. 461

Senator Jones submitted the following report for the Committee on Finance:

S.B. 616
S.B. 617
C.S.S.B. 522
C.S.S.B. 751

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

S.B. 922
S.B. 1174
S.B. 1125
S.B. 1124
S.B. 874
S.B. 923
S.B. 591 (Amended)
C.S.S.B. 705
C.S.S.B. 61

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be a Member of the STATE PURCHASING AND GENERAL SERVICES COMMISSION: Ross D. Margraves, Jr., Harris County.

To be a Member of the TEXAS BOARD OF HEALTH: Frank Bryant, Jr., M.D., Bexar County.

To be a Member of the TEXAS BOARD OF HEALTH - PHARMACIST POSITION: Mrs. Barbara T. Slover, Tarrant County.

To be a Member of the TEXAS COMMISSION FOR THE BLIND: Kyle Lance Fulton, Lubbock County.

To be Members of the BOARD OF DIRECTORS, UPPER GUADALUPE RIVER AUTHORITY: T. Beck Gipson, Kerr County; William D. Looney, Kerr County; Mrs. Betty Strohacker, Kerr County; Mrs. Lorita Ann Tipton, Kerr County.

To be COMMISSIONER FOR THE PECOS RIVER COMPACT: Billy L. Moody, Pecos County.

To be Members of the TEXAS TURNPIKE AUTHORITY: Charles R. Matthews, Dallas County; Ed Palm, Tarrant County.

To be Members of the TEXAS BOARD OF CORRECTIONS: Charles T. Terrell, Dallas County; Jerry H. Hodge, Potter County.

To be JUDGE, 103rd JUDICIAL DISTRICT, CAMERON AND WILLACY COUNTIES: Mrs. Jane Akin Brasch, Cameron County.

To be JUDGE, 225th JUDICIAL DISTRICT, BEXAR COUNTY: Emilio Miller Garza, Bexar County.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Brooks and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1369 by Brooks Economic Development
Relating to the inclusion of certain licensed dietitians' services in health insurance coverage.

- S.B. 1370** by Brooks Health and Human Services
Relating to qualification to take the examination for certification as a psychologist.
- S.B. 1371** by Brooks, Sarpalius Economic Development
Relating to minimum standards for long-term care coverage under certain accident and sickness insurance coverage and coverage of health maintenance organizations.
- S.B. 1372** by Sims Natural Resources
Relating to the recovery of certain expenses incurred by the Texas Animal Health Commission.
- S.B. 1373** by Glasgow Natural Resources
Relating to the creation, administration, powers, duties, operations, and financing of and the annexation of territory to and exclusion of territory from the Cliffs Municipal Utility District; providing for the issuance of bonds and the levy of property taxes.
- S.B. 1374** by Glasgow Intergovernmental Relations
Relating to the jurisdiction of the County Court at Law of Parker County.
- S.B. 1375** by Glasgow Intergovernmental Relations
Relating to microfilm records of county clerks.
- S.B. 1376** by Glasgow Economic Development
Relating to review of certain claims against health care providers by medical prefilling review panels.
- S.B. 1377** by Edwards Natural Resources
Relating to the date for sunset review of the Department of Agriculture.
- S.B. 1378** by Jones Intergovernmental Relations
Relating to the creation, administration, powers, duties, operation, and financing of the Ballinger Memorial Hospital District; granting the power of eminent domain; providing for the issuance of bonds and the levy of taxes.
- S.J.R. 53** by Edwards State Affairs
Proposing a constitutional amendment to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices if the governor is not reelected.
- S.C.R. 85** by Brooks Health and Human Services
Encouraging the legal, banking and insurance communities to provide public information on the value of estate planning for victims of Alzheimer's disease.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.J.R. 48**, To Committee on Finance.
H.B. 150, To Committee on Criminal Justice.
H.B. 823, To Committee on State Affairs.
H.B. 759, To Committee on Intergovernmental Relations.
H.B. 878, To Committee on Criminal Justice.

CO-AUTHORS OF SENATE RESOLUTION 261

On motion of Senator Parker and by unanimous consent, Senators Truan and Uribe will be shown as Co-authors of **S.R. 261**.

CO-SPONSORS OF HOUSE BILL 878

On motion of Senator Parker and by unanimous consent, Senators Anderson and Barrientos will be shown as Co-sponsors of H.B. 878.

GUEST PRESENTED

Senator Krier was recognized and introduced the Capitol Physician for the Day, Dr. Ray Jones of San Antonio.

Dr. Jones received the welcome and appreciation for his service from the Members of the Senate.

SENATE RESOLUTION 278

Senator Parmer offered the following resolution:

S.R. 278, Congratulating Van Cliburn for his remarkable career as a concert pianist and commending him for the joy he has brought to music lovers across the globe.

The resolution was read and was adopted viva voce vote.

SENATE RESOLUTION 279

Senator Parmer offered the following resolution:

S.R. 279, Extending a welcome and sincere best wishes to Mrs. Rildia Bee O'Bryan Cliburn for a happy and memorable visit to Austin.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Mrs. Cliburn and her son, Van, were escorted to the President's Rostrum.

Mrs. Cliburn, at the invitation of the President, addressed the Senate, expressing her joy at returning to the Capitol where her father, W. C. O'Bryan, served as a Member of the House of Representatives from 1905 until 1909.

Mr. Cliburn expressed his appreciation for the Senate's recognition and gave special thanks for recognizing his mother and fellow musicians.

The President presented enrolled copies of S.R. 278 and S.R. 279 to them.

SENATE RESOLUTION 280

Senator Parmer offered the following resolution:

S.R. 280, Extending a sincere welcome to violinist Robert Davidovici on his visit to Austin and best wishes for a successful performance this evening for the Senate Ladies Club.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

Senator Parmer escorted Mr. Davidovici to the President's Rostrum for a presentation of an enrolled copy of S.R. 280 by the President.

SENATE RESOLUTION 277

Senator Parmer offered the following resolution:

S.R. 277, Commending pianist Steven De Groote for his outstanding contributions to music and extending a warm welcome to him on his visit to Austin.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

Mr. De Groote was escorted to the President's Rostrum by Senator Parmer and was presented an enrolled copy of S.R. 277 by the President.

SENATE CONCURRENT RESOLUTION 86

Senator Parker offered the following resolution:

S.C.R. 86, Designating Bob Hope the recipient of the Texas Humanitarian Award for his many years of work for the Huguen Center for Physically Handicapped Children, Inc., of Port Arthur.

The resolution was read.

On motion of Senator Parker and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 257

Senator Barrientos offered the following resolution:

S.R. 257, Extending a warm welcome to the athletes participating in the 1987 Branders Jeans Tour of Texas.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Barrientos escorted these young people to the President's Rostrum for a presentation of an enrolled copy of S.R. 257 by the President.

GUEST PRESENTED

The President presented his guest, Senator Ted Strickland, President of the Colorado Senate and President-elect of the National Conference of State Legislatures.

On invitation of the President, Senator Strickland addressed the Senate, expressing his pleasure in returning to his hometown of Austin and the honor of addressing the Texas Senate.

HOUSE CONCURRENT RESOLUTION 135

The President laid before the Senate the following resolution:

H.C.R. 135, Recognizing April 1, 1987, as George Jones Day in Texas.

The resolution was read.

On motion of Senator Blake and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

GUESTS PRESENTED

Mr. Jones, accompanied by his wife, Nancy, and daughter, Sherry, was escorted to the President's Rostrum.

The Senate welcomed these guests.

MESSAGE FROM THE HOUSE

House Chamber
April 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 299, Relating to exempting certain items from certain local sales and use taxes if the items are used for the performance of a contract entered into before the tax takes effect. (Substituted and amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 299**.

SENATE BILL 299 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 299** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Schlueter

Substitute the following for **S.B. 299**:

Amend **S.B. 299** by striking all below the enacting clause and substituting in lieu thereof the following:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended by amending Subsections F and G and adding Subsection L to read as follows:

F. The ballot at such election shall be printed to provide for voting for or against the following proposition:

"The adoption of an additional one-half of one percent (1/2%) local sales and use tax within the city to be used to reduce the property tax rate."

The ballot at such election in a city that does not impose a property tax shall be printed to provide for voting for or against the following proposition:

"The adoption of an additional one-half of one percent (1/2%) local sales and use tax within the city."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of the additional local sales and use tax, the same shall be effective as provided by Subsection K of this Section.

G. In any city in which an additional local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure such city by majority vote of the qualified voters of said city voting at an election held for that purpose may abolish such tax. ~~[The governing body of a city that has adopted the additional tax authorized by this Section shall call an election on the question of the abolition of the additional tax no later than ten (10) years from the date of the last preceding election on the adoption or abolition of the additional tax.]~~ The ballot for any such election shall be printed to provide for voting for or against the following proposition:

"The abolition of the additional local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such additional local sales and use tax shall be thereby abolished in the city as follows: There shall elapse one whole calendar quarter after the

Comptroller receives the notice of abolition of the tax, after which the additional local sales and use tax shall be abolished in the city beginning on the first day of the first calendar year next succeeding the elapsed quarter.

L. (1) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this State are exempt from the additional tax imposed by a city under this Section if the items are used:

(a) for the performance of a written contract entered into prior to the date the additional tax takes effect in the city, if the contract is not subject to change or modification by reason of the tax; or

(b) pursuant to an obligation of a bid or bids submitted prior to the date the additional tax takes effect in the city, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(2) The exemptions provided by this Section have no effect after three (3) years from the date the additional tax takes effect in the city.

SECTION 2. Subsection A, Section 4, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

A. Except as provided in Subsection D of this Section, in every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%), or one and one-half percent (1-1/2%) if the tax under Section 2A of this Act has been adopted, of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection E of this Section, the local use tax is not owed to and may not be collected by, for, or in behalf of a city if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the State under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within a city or area that has not adopted the local sales or use tax. For the purpose of determining the proper sales tax under this Act and the proper excise tax on the use, storage, or other consumption of taxable items under Section 2A of this Act:

(1) if a taxable item is used, stored, or otherwise consumed in a city that has adopted the tax imposed by Section 2A of this Act, the provisions of ~~[Paragraphs (a), (b), (c), and (d), Subdivision 1, Subsection B,]~~ Section 6[-] of this Act are applicable; and

(2) if the sales tax applies in a city that has not adopted the tax imposed under Section 2A of this Act, the excise tax on the use, storage, or other consumption of the taxable item does not apply.

SECTION 3. Section 9, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) In each year in which a city imposes an additional city sales and use tax under Section 2A of this Act, if the revenue from the collection of the additional tax exceeds the amount of taxes calculated for the city under Section 26.04(c), Tax Code, except for the amount required to be deposited in a special account under Subsection (c) of this section, the excess shall be deposited in an account to be called the city sales tax debt service fund. Revenue deposited in the city sales tax debt service fund may be spent only for the reduction of lawful debts of the city, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the city in the current year may be used for any city purpose consistent with the city budget.

(c) Revenue from the collection of the additional tax imposed under Section 2A of this Act in each of the first three years in which the tax is imposed in the city

in excess of the amount determined as provided by Section 26.041(c), Tax Code, for each year shall be deposited in an account to be called the excess sales tax revenue fund. During those three years, revenue deposited in the excess sales tax revenue fund may be spent only if and to the extent that taxes or other revenues of the city are collected in amounts less than anticipated. After that period, the revenue in the fund may be used for any city purpose consistent with the city budget. The fund ceases to exist when all revenue deposited in the fund has been spent. This subsection does not apply to a city that does not impose a property tax.

SECTION 4. The County Sales and Use Tax Act (Article 2353e, Vernon's Texas Civil Statutes) is amended by adding Section 26A to read as follows:

Sec. 26A. (a) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this state are exempt from the tax imposed by a county under this Act if the items are used:

(1) for the performance of a written contract entered into prior to the date the tax takes effect in the county, if the contract is not subject to change or modification by reason of the tax; or

(2) pursuant to an obligation of a bid or bids submitted prior to the date the tax takes effect in the county, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(b) The exemptions provided by this section have no effect after three years from the date the tax takes effect in the county.

SECTION 5. Sections 28 and 29, County Sales and Use Tax Act (Article 2353e, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 28. Each county's share of all county sales and use tax collected under this Act by the comptroller shall be transmitted to the county treasurer by the comptroller payable to the county periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each state fiscal year. Before transmitting any funds collected under this Act to a county, the comptroller shall deduct two percent of the total amount collected from each county as a charge by the State of Texas for its services specified in this Act; and the amounts so deducted, subject to the provisions for expenditures for bond premiums, shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund of the state. The comptroller is authorized to retain in the suspense account of any county a portion of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent of the amount remitted to the county. The comptroller is authorized to make refunds from the suspense account of any county for overpayments made to such accounts and to redeem dishonored checks and drafts deposited to the credit of the proper suspense accounts. When any county shall adopt the county sales and use tax and shall thereafter abolish such tax, the comptroller may retain in the suspense account of such county for a period of one year five percent of the final remittance to each such county at the time of termination of collection of such tax in the county to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in the county, the comptroller shall remit the balance in such account to the county and close the account. Interest earned on all deposits made with the state treasurer under this Act, including interest earned from the suspense accounts retained under this section, shall be credited to the general revenue fund.

Sec. 29. (a) Money collected under this Act is for the use and benefit of the county to which the funds are distributed and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this Act. Except as provided by Subsection (b) of this section, the [The] revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of indebtedness of the county. After all indebtedness is paid, the excess may be used

for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year.

(b) Revenue collected from the tax imposed under this Act in each of the first three years in which the tax is imposed in the county in excess of the amount determined as provided by Section 26.042(c), Tax Code, for each year shall be deposited in an account to be called the excess sales tax revenue fund. During those three years, revenue deposited in the excess sales tax revenue fund may be used only if and to the extent that taxes or other revenues of the county are collected in amounts less than anticipated. After that period, the revenue in the fund may be used for any purpose for which county general revenue may be used. The fund ceases to exist when all revenue deposited in the fund has been spent.

SECTION 6. Section 8(g), Article 1118z, Revised Statutes, is amended by adding Subdivisions (6) and (7) to read as follows:

(6) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this state are exempt from the tax imposed under this article if the items are used:

(A) for the performance of a written contract entered into prior to the date the tax takes effect in the city, if the contract is not subject to change or modification by reason of the tax; or

(B) pursuant to an obligation of a bid or bids submitted prior to the date the tax takes effect in the city, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(7) The exemptions provided by Subdivision (6) of this subsection have no effect after three years from the date the tax takes effect in the city.

SECTION 7. Sections 8(j) and (l), Article 1118z, Revised Statutes, are amended to read as follows:

(j) Unless inconsistent with this article, the [The] following provisions govern the collection by the comptroller of the tax imposed under this section:

(1) all applicable provisions contained in Title 2, Tax Code;

(2) Section 6, Local Sales and Use Tax Act; and

(3) the penalties provided in Title 2, Tax Code, for violations of that title.

(l) Each department's share of all sales and use taxes collected under this section by the comptroller shall be transmitted periodically and as promptly as feasible to the city treasurer by the comptroller. Transmittals required under this section shall be made at least twice in each state fiscal year. Before transmitting funds, the comptroller shall deduct two percent of the sum collected from each city or town during the period as a charge by the state for its services specified in this section, and the amounts so deducted shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund. The comptroller may retain in the suspense account of any department a portion of the department's share of the taxes collected under this section. The balance so retained in the suspense account may not exceed five percent of the amount remitted to the department. The comptroller is authorized to make refunds from the suspense account of any department for overpayments made to the department's accounts and to redeem dishonored checks and drafts deposited to the credit of the suspense account of the department. Interest earned on all deposits made with the state treasurer under this Act, including interest earned from the suspense funds retained under this section, shall be credited to the general revenue fund.

SECTION 8. Section 11B(B)(c)(6), Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(6) There are exempted from the sales taxes imposed by this article receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the authority area by the retailer by means of:

- (a) facilities operated by the retailer;
- (b) delivery by the retailer to a carrier for shipment to a consignee at such point; or
- (c) delivery by the retailer to a customs broker or forwarding agent for shipment outside the authority.

If the tangible personal property exempted under this subparagraph, [or] under Paragraph (F) of Section 16(f)(2) of Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), or under Section 8(g)(2), Article 1118z, Revised Statutes, is shipped or delivered directly to a purchaser in another city, town, or authority that has adopted the taxes imposed under any of those laws [either article], the tangible personal property is subject to the use tax imposed by Subsection (A) of this section.

SECTION 9. Section 16(f)(2)(F), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(F) There are exempted from the sales taxes imposed by this article receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the authority area by the retailer by means of:

- (a) facilities operated by the retailer;
- (b) delivery by the retailer to a carrier for shipment to a consignee at such point; or
- (c) delivery by the retailer to a customs broker or forwarding agent for shipment outside the authority.

If the tangible personal property exempted under this paragraph, [or] under Subparagraph (6) of Section 11B(B)(c) of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973[as amended] (Article 1118x, Vernon's Texas Civil Statutes), or under Section 8(g)(2), Article 1118z, Revised Statutes, is shipped or delivered directly to a purchaser in another city, town, or authority that has adopted the taxes imposed by any of those laws [either article], the tangible personal property is subject to the use tax imposed by Subdivision (1) of Subsection (f) of this section.

SECTION 10. Section 3.051(c), Chapter 240, Acts of the 69th Legislature, Regular Session, 1985 (Article 4393-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Interest that has been and that will be accrued or earned from deposits made under a law listed in this subsection is state funds not subject to allocation or distribution to taxing units, cities, or transportation authorities under that law. This subsection applies to deposits made under:

- (1) Section 205.02, Alcoholic Beverage Code;
- (2) Section 26, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);
- (3) Section (d), Article 4366e, Revised Statutes;
- (4) Section 7 or Subsection (a), Section 8, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes);
- (5) Paragraph (4), Subdivision (e) or Subdivision (f), Subsection B, Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);
- (6) [or] Paragraph (D), Subdivision (4) or Subdivision (5), Subsection (f), Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes);
- (7) Section 8(l), Article 1118z, Revised Statutes; or
- (8) Section 28, County Sales and Use Tax Act (Article 2353e, Vernon's Texas Civil Statutes)[is state funds not subject to allocation or distribution to taxing units, cities, or transportation authorities under those laws].

SECTION 11. Section 26.041, Tax Code, is amended to read as follows:

Sec. 26.041. TAX RATE OF CITY IMPOSING ADDITIONAL SALES AND USE TAX. (a) In each tax year in which a city imposes an additional sales and use tax under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), the ~~[governing body may not adopt a tax rate that exceeds the tax rate calculated under Section 26.04 of this code and adjusted under this section by more than three percent. The governing body shall reduce a tax rate set by law or by vote of the electorate to a rate that does not exceed the rate permitted by this subsection. In a year in which this subsection applies, Sections 26.05(c), 26.06, and 26.07 of this code do not apply to the city.~~

~~[(b) The]~~ officer or employee designated to make the calculations provided by Section 26.04 of this code for a city shall adjust the tax rate calculated under that section as provided by Subsection (b) ~~[(c)]~~ or (e) of this section, as applicable. In a tax year to which this section applies, a reference in Section 26.05, 26.06, or 26.07 of this code to the tax rate calculated for the city under Section 26.04 of this code refers to that rate as adjusted under this section.

~~(b) [(c)]~~ In each tax year in which a city imposes an additional sales and use tax under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes):

(1) if the amount of additional tax to be imposed in the current year as determined under Subsection (c) ~~[(d)]~~ of this section exceeds the amount of additional tax, if any, used for purposes of this section in the preceding year as determined under Subsection (c) ~~[(d)]~~ in that year, the officer or employee shall subtract from the rate calculated for the city under Section 26.04 of this code the rate that, if applied to the total taxable value submitted to the governing body, would impose taxes equal to the amount by which the amount of additional tax to be imposed in the current year exceeds the amount of additional tax used in the preceding year; or

(2) if the amount of additional tax to be imposed in the current year as determined under Subsection (c) ~~[(d)]~~ of this section is less than the amount of additional tax, if any, used for purposes of this section in the preceding year as determined under Subsection (c) ~~[(d)]~~ in that year, the officer or employee shall add to the rate calculated for the city under Section 26.04 of this code the rate that, if applied to the total taxable value submitted to the governing body, would impose taxes equal to the amount by which the amount of additional tax used in the preceding year exceeds the amount of additional tax to be imposed in the current year.

~~(c) [(d)]~~ In order to determine the amount of additional city sales and use tax revenue for purposes of this section, the designated officer or employee shall use the city sales and use tax revenue for the last preceding four quarters for which the information is available as the basis for projecting the additional sales and use tax revenue for the current tax year. If the city did not impose a sales and use tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) for the last preceding four quarters, the designated officer or employee shall request the comptroller of public accounts to provide to the officer or employee a report showing the estimated amount of taxable sales and uses within the city for the previous four quarters as compiled by the comptroller, and the comptroller shall comply with the request. The city officer or employee shall prepare ~~the [an]~~ estimate of the city additional sales and use tax revenue for the first year of the imposition of the tax by multiplying the amount reported by the comptroller by the additional tax rate under Section 2A, Local Sales and Use Tax Act. For the first, second, and third years in which a city imposes the additional sales and use tax, the officer or employee shall multiply the amount of revenue as otherwise determined under this subsection by nine-tenths.

(d) If during any one-year period the legislature enacts one or more amendments to Chapter 151, Tax Code, that result in an increase in the total taxable

value of the sale, use, storage, and other consumption of all items subject to the state sales and use tax by 10 percent or more as determined by the comptroller, the comptroller shall provide for the adjustment of the revenue estimates made under Subsection (c) of this section taking into account the additional revenue estimated to be collected by the city under Section 2A, Local Sales and Use Tax Act, because of the increase in the sales tax base.~~[and by multiplying that product by .95.]~~

(e) A city that imposes an additional sales and use tax under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), in a tax year qualifies in that tax year for the effective tax rate adjustment provided by this subsection if the city receives payments under the terms of a contract executed before January 1, 1986, in which the city agrees not to annex certain property or a certain area and the owners or lessees of the property or of property in the area agree to pay at least annually to the city an amount determined by reference to all or a percentage of the property tax rate of the city and all or a part of the value of the property subject to the agreement or included in the area subject to the agreement. The governing body of a qualifying city, by order adopted by a majority vote of the governing body, may direct the designated officer or employee to add to the tax rate calculated under Section 26.04 of this code and adjusted under Subsection (b) of this section the amount that, when applied to the total taxable value submitted to the governing body, would produce an amount of taxes equal to the difference between the total amount of payments for the tax year under contracts described by this subsection under the tax rate calculated under Section 26.04 and adjusted under Subsection (b) of this section and the total amount of payments for the tax year that would have been obligated to the city if the city had not adopted an additional sales and use tax under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes).

SECTION 12. Section 26.042, Tax Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) In order to determine the amount of sales and use tax revenue for purposes of this section, the designated officer or employee shall use the county sales and use tax revenue for the last preceding four quarters for which the information is available as the basis for projecting sales and use tax revenue for the current tax year. If the county did not impose a sales and use tax for the preceding four quarters, the designated officer or employee shall request the comptroller of public accounts to provide to the officer or employee a report showing the estimated amount of taxable sales and uses within the county for the previous four quarters as compiled by the comptroller, and the comptroller shall comply with the request. The county officer or employee shall prepare an estimate of the county sales and use tax for the first year of the imposition of the tax by multiplying the amount reported by the comptroller by the county sales and use tax rate. For the first, second, and third years in which a county imposes a county sales and use tax, the officer or employee shall multiply the amount of revenue as otherwise determined under this subsection by nine-tenths.

(d) If during any one-year period the legislature enacts one or more amendments to Chapter 151, Tax Code, that result in an increase in the total taxable value of the sale, use, storage, and other consumption of all items subject to the state sales and use tax by 10 percent or more as determined by the comptroller, the comptroller shall provide for the adjustment of the revenue estimates made under this section taking into account the additional revenue estimated to be collected by the county under the County Sales and Use Tax Act because of the increase in the sales tax base.

SECTION 13. Section 31.01, Tax Code, is amended by adding Subsection (i) to read as follows:

(i) For a city or town that imposes an additional sales and use tax under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil

Statutes), or a county that imposes a sales and use tax under the County Sales and Use Tax Act (Article 2353e, Vernon's Texas Civil Statutes), the tax bill shall indicate the amount of additional ad valorem taxes, if any, that would have been imposed on the property if additional ad valorem taxes had been imposed in an amount equal to the amount of revenue estimated to be collected from the additional city sales and use tax for the year determined as provided by Section 26.041(c) of this code or from the county sales and use tax for the year determined as provided by Section 26.042(c) of this code, as applicable.

SECTION 14. The exemptions provided by Subsection L, Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), Section 26A, County Sales and Use Tax Act (Article 2353e, Vernon's Texas Civil Statutes), and Section 8(g)(6), Article 1118z, Revised Statutes, as added by this Act, apply to a tax even if the election to adopt the tax is held before the effective date of this Act.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Schlueter

Amend C.S.S.B. 299, SECTION 12, striking proposed new subsection (d) of Section 26.042, Tax Code, and substituting the following:

(d) The calculations required under subsection (c) need not take into account any projections of additional revenue attributable to increases in the total value of items taxable under the state sales and use tax due to amendments to Chapter 151, Tax Code.

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Edwards gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

SENATE RESOLUTION 291

Senator Truan offered the following resolution:

S.R. 291, Directing the Subcommittee on Health Services of the Senate Health and Human Services Committee to conduct hearings to determine ways and means to insure timely notification of persons who may be affected by uncontrolled releases of life-threatening toxic materials.

TRUAN
ANDERSON

The resolution was read and was adopted viva voce vote.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 82

**COMMITTEE SUBSTITUTE SENATE BILL 32
ON SECOND READING**

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 32, Relating to the regulation of the profession of radiologic technology; providing a penalty.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Krier, Leedom, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Farabee, Jones, Lyon, McFarland, Montford, Sarpalius, Sims.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 32** as follows:

On page 2, line 4, amend subdivision (1) of subsection (a) as follows:

(1) ~~[two must be consumers;]~~ two members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(i) is licensed by an occupational regulatory agency in the field of radiologic technology;

(ii) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(iii) owns or controls, directly or indirectly, more than a ten percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(iv) uses or receives a substantial amount of tangible goods, services, or funds from the department, or other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

On page 2, line 14, insert a new subsection (b) to read as follows and renumber the existing and succeeding subsections accordingly:

(b) Appointments to the advisory board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

On page 2, line 25, insert a new subsection as follows after the existing subsection (c) and renumbering the succeeding subsections accordingly:

(d) The advisory board shall adopt policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

On page 2, line 32, insert the following subsections after the existing subsection (e):

(f) The Medical Radiologic Technologist Advisory Board is subject to the Texas Sunset Act (Chapter 325, Government Code), and unless continued in existence as provided by that Act, the advisory board is abolished, and this Act expires effective September 1, 1997.

(g) The Medical Radiologic Technologist Advisory Board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished

September 1, 1991 are reviewed, but the advisory board is not abolished at that time. This subsection expires September 1, 1991.

The amendment was read and was adopted viva voce vote.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 32** by adding a new **SECTION 16** to read as follows:

The provisions of this Act do not apply to any hospital licensed in the State of Texas that has 100 beds or less.

The amendment was read.

On motion of Senator Truan, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Anderson, Barrientos, Blake, Brooks, Brown, Caperton, Green, Harris, Henderson, Jones, Krier, McFarland, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Edwards, Farabee, Glasgow, Johnson, Leedom, Lyon, Montford, Sarpalius, Sims.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator McFarland asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE SENATE BILL 32 ON THIRD READING**

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 32** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 24, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Green, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Farabee, Glasgow, Jones, Lyon, Sarpalius, Sims, Washington.

SENATE JOINT RESOLUTION 17 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.J.R. 17, Proposing a constitutional amendment permitting the legislature to include members of more than one department of state government in the membership of an agency or committee.

The resolution was read second time.

Senator Farabee offered the following amendment to the resolution:

Amend S.J.R. 17 by striking Sec. 66 in its entirety and substituting in lieu thereof the following:

Sec. 66. The legislature may include the speaker of the house of representatives in the membership of an agency or committee that includes officers of the executive department of state government and performs executive functions.

The amendment was read and was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to engrossment viva voce vote.

RECORD OF VOTES

Senators Henderson and Washington asked to be recorded as voting "Nay" on the passage of the resolution to engrossment.

SENATE JOINT RESOLUTION 17 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.J.R. 17 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Henderson, Washington.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 789 ON SECOND READING

Senator Farabee moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 789, Relating to the management of temporary cash shortfalls in general revenue funds.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read second time and passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 789 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 789 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the final passage of the bill.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Blake announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 9:00 a.m. on Thursday, April 2, 1987, and that all bills and resolutions would be considered on second and/or third reading in the order in which they are listed.

MOTION TO RECESS

On motion of Senator Brooks and by unanimous consent, the Senate agreed to take recess at the conclusion of tomorrow's Local Calendar session until 10:00 a.m. tomorrow.

MEMORIAL RESOLUTIONS

S.R. 287 - By Glasgow, Brooks: Memorial resolution for Hugh R. Massey.

S.R. 289 - By Glasgow: Memorial resolution for Dr. R. Bruce Golemon.

CONGRATULATORY RESOLUTIONS

S.R. 281 - By Armbrister: Commending Bob White, Herb Remington, Leon Rausch, Laura Lee McBride and Louise Rowe of the Texas Playboys and the Broken Spoke.

S.R. 282 - By Krier: Commending Billie Stroud.

S.R. 283 - By Santiesteban: Commending Richard Guy and Rex Holt.

S.R. 284 - By Santiesteban: Extending congratulations to Coletta DeArman.

S.R. 285 - By Green: Extending congratulations to Richard Hammond.

S.R. 286 - By Green: Extending congratulations to Jesse Collazo, Jr.

S.R. 288 - By Glasgow: Extending congratulations to John Winters.

S.R. 290 - By Tejeda: Commending Bill Crain.

RECESS

On motion of Senator Brooks, the Senate at 12:29 p.m. took recess until 9:00 a.m. tomorrow.

APPENDIX

Signed by Governor
(March 31, 1987)

H.C.R. 87

H.C.R. 89

H.C.R. 123

H.C.R. 131

S.C.R. 9

S.C.R. 51

S.C.R. 52